

Blewett 2001-0057

R E M A R K S

The Examiner maintains the rejection of claims 1-2, 4, 7-9, 12-26, 28, 31-33, 36-43, 45, 58-50, and 56-58 as being anticipated by Flint et al, US Patent 6,453,419. The Examiner rebuffs applicants' assertion of no anticipation, but applicants believe that the Examiner's explanation is, effectively, an incorrect bootstrap argument.

To begin, it is noted that FIG. 2 of the reference shows a "shared partner net" 46 (presumably, the "net" stands for "network") that is connected to firewall 34 through a connection that is marked "VPN." Applicants searched the reference for a teaching of network 46. However, not a single reference was found of an element designated 46, and not a single reference was found of the terms "shared net," "shared network," or even the word "partner." In short, there is almost nothing in the reference that tells what network 46 is, other than that it is shown in FIG. 2 with a connection marked "VPN."

Relative to claims 1, 25 and 42, the Examiner's argument indeed starts with the term "VPN" and citing the Microsoft Computer dictionary 5th edition the Examiner equates VPN to a "node on a public network such as internet that communicate among themselves using encryption technology so that their message are safe from being intercepted and understood by unauthorized users as if the nodes were connected by private." Thus, on the strength of the term "VPN" associated in FIG. 2 with the connection between firewall 34 and network 46, the Examiner seems to assert that network 46 is a virtual private network within the Internet 36 and that, therefore, the limitations of claims 1, 25, and 42 are met by the reference. The Examiner goes on to state that

On the top of that, it is clear for one of ordinary skill in the art that (Virtual Private Network) ~~which~~ [sic] refers to a network in which some of the parts are connected using the public Internet, but the data sent across the Internet is encrypted, so the entire network is "virtually" private.

which, again, appears to assert that network 46 is part of network 36, allowing the Examiner to reach the same conclusion.

Regardless of whether or not this assumption is valid – and applicants believe it is not – what is believed indisputable is that the Examiner is making an assumption, or a surmise. Respectfully, however, assumptions or surmises cannot form a basis for a 35

Blewett 2001-0057

USC 102 rejection and, therefore, applicants believe that the rejection of applicants' claims is improper.

Although the discussion can end here, applicants respectfully also assert that the Examiner's assumption is not valid, and applicants' assertion is based on the weight of what is taught in the reference, and what is not taught in the reference, as well as the definition offered by the Examiner, as demonstrated below.

In rebuttal to the Examiner's assumption, applicants first note that the definition *offered by the Examiner* mentions the Internet as an example. That means that the Internet is not the only environment in which VPNs may be found. Second, it is noted that the reference itself provides a counter example, where it describes the network of FIG. 1b (i.e., network 32 - which is the element 32 shown in FIG. 2 as well), which clearly does not have the structure of the Internet, is NOT described to be the Internet 36 or within the Internet 36, and which teaches the notion of regions that "let you group both physical interfaces (network cards) and Virtual Private Networks (VPNs) into areas of similar trust and security needs" (col. 3, lines 16-18). Third, applicants note that the firewall found in FIG. 2, network 44 that is found in FIG. 2, and the secure server network 42 that is connected to network 44, are the very same elements that are found in FIG. 1b, which indicates that FIG. 2 is merely an extension, or expansion, of FIG. 1b. Fourth, there is nothing to explain the multiple lines that interconnect firewall 34 to network 46, and most likely what the multiple lines intend to convey is the notion of multiple VPN connections (which are logical connections) over a single physical connection.¹ Fifth, the sole reference to the VPN depicted in FIG. 2 is found in col. 3, lines 36-38, which state

In one such embodiment, firewall 34 also controls virtual private network (VPN) communication between external entities and networks 32 and 44.

¹ Admittedly, this is an assumption on the part of applicants, but it is noted that this assumption is not necessary for reaching the conclusions reached by applicants, and there is nothing to suggest that this assumption is erroneous.

Blewett 2001-0057

This reference does not compel the assumption that network 46 is part of the Internet 36. It only compels the conclusion that the **communication** to network 34 is of the VPN variety. The sentence following the above quote, at col. 3, lines 38–40 states

Regions are defined and one or more networks is assigned to each region

and this sentence compels the conclusion that the use of VPN connections to network 46 arises from the existence of regions within network 46, just as in the FIG. 1b network. Since (a) the FIG. 1b network does not have the structure of the Internet, and is not within the Internet, (b) network 46 is not taught to be the Internet or within the Internet, (c) whatever can be gleaned from the reference suggests that network 46 is not unlike network 32 of FIG. 1b, and (d) the notion that VPNs are not restricted to the Internet is supported by the explicit teachings within the reference as well as by the definition offered by the Examiner, the conclusion must be reached that the Examiner's assumption is not proper. It is respectfully submitted, therefore that claims 1, 25 and 42 are not anticipated by Flint et al, and neither are the claims that depend on claims 1, 25, and 42.

Regarding the Examiner's explanation of the continued rejection of claim 14, applicants respectfully submit that the explanation and the continued rejection are based on the invalid assumption, discussed above. Therefore, the rejection is traversed. Additionally, the Examiner's explanation is introducing IPSec into the VPN usage of the reference – in connection with networks 32 and 46 – which is not justified, since there is no mention of IPSec or tunneling in the reference. In fact, a virtual private network can be had without tunneling, so there is no basis for the injection of IPSec into consideration of claim 14. Hence, even if claim 1 were not patentable – and for the reasons expressed above and in the response to the previous Office action, applicants believe that it is – claim 14 would be patentable.

Claims 3, 5-6, 10-11, 27, 29-30, 34-35, 44, 46-47, 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flint et al. in view of Chopra et al, U.S. Patent No. 6,611,875. This rejection appears to be identical to the rejection in the previous Office action, and applicants respectfully submit that, for the reasons expressed above and in the response to the previous Office action the rejection of claims 3, 5-6, 10-11, 27, 29-30, 34-35, 44, 46-47, 51-54 is overcome.

Blewett 2001-0057

In light of the above remarks, applicants respectfully submit that all of the Examiner's rejections have been overcome. Reconsideration and allowance of the outstanding claims are respectfully solicited.

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Respectfully,
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